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UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

In re: : Chapter 11

MOTORS LIQUIDATION COMPANY, et al., : C

f/k/a General Motors Corp., et al.,

t al., : Case No. 09-50026 (REG)

**HEARING DATE: TO BE DETERMINED** 

Debtors. : (Jointly Administered)

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THIRD AND FINAL APPLICATION OF TOGUT,
SEGAL & SEGAL LLP AS CONFLICTS COUNSEL
FOR THE DEBTORS FOR ALLOWANCE OF COMPENSATION
FOR SERVICES (I) RENDERED FOR THE PERIOD OCTOBER 1, 2010
THROUGH MARCH 29, 2011, (II) PREVIOUSLY APPROVED BY THE COURT
ON AN INTERIM BASIS, AND (III) FOR REIMBURSEMENT OF EXPENSES

TO THE HONORABLE ROBERT E. GERBER, UNITED STATES BANKRUPTCY JUDGE:

Togut, Segal & Segal LLP (the "**Togut Firm**"), as conflicts counsel for Motors Liquidation Company (f/k/a General Motors Corporation) ("**MLC**") and the other above-captioned reorganized debtors (collectively, the "**Debtors**"), respectfully makes this third and final application (the "**Application**") for (i) the allowance of compensation for professional services rendered for the period October 1, 2010 through March 29, 2011, the Confirmation Date (as defined herein), (the "**Third Interim Period**") and for reimbursement of expenses incurred in connection with such services, (ii) the allowance of compensation previously approved by the Court on an interim basis and

(iii) reimbursement of expenses on a final basis and respectfully shows this Honorable Court that:

## PRELIMINARY STATEMENT

The bankruptcy of General Motors was a historic event. The Togut Firm was retained as conflicts counsel in December 2009 to handle certain post-sale transaction matters because of its experience and expertise as conflicts counsel and in other complex automotive chapter 11 cases.

During the pendency of the Debtors' chapter 11 cases, the Togut Firm, among other things: (a) challenged and resolved a \$24 million setoff against the Debtors; (b) achieved over \$137 million in savings related to various lease and contract rejection claims asserted against the Debtors; (c) settled a motion filed by New GM (defined herein) to rescind the Debtors' alleged assumption and assignment to New GM of a sublease; and (d) conducted an investigation and made recommendations concerning whether there were any potential claims against the Debtors' former officers and directors existing prior to confirmation of the Plan on March 29, 2011 (the "Confirmation Date").

We respectfully submit that, as detailed in the interim fee applications previously filed with this Court as summarized below, and reflected in the detailed time records filed with this Court as part of its monthly fee statements, the Togut Firm has rendered beneficial services to the Debtors during the pendency of the Debtors' bankruptcy cases in an efficient and economical manner.

## I. FEES AND EXPENSES FOR WHICH ALLOWANCE IS SOUGHT

This Application is made pursuant to sections 330 and 331 of title
 of the United States Code (the "Bankruptcy Code"), Rule 2016(a) of the Federal

Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), this Court's Order Establishing Procedures for Interim Monthly Compensation for Professionals (Docket No. 1334) (the "Interim Compensation Order") and this Court's Order confirming the Plan, dated March 29, 2011 (Docket No. 9941), (a) for interim allowance of interim compensation for services rendered to the Debtors during the Third Interim Period in the amount of \$439,982.50¹ and for reimbursement of expenses in connection with such services in the amount of \$2,453.94 and (b) for the allowance on a final basis of compensation and reimbursement of expenses in the Prior Interim Applications (as defined herein) which have been paid pursuant to Orders of this Court subject to a 10% holdback, as detailed below.

- 2. The Togut Firm's attorneys and paraprofessionals expended a total of 886.2 hours during the Third Interim Period for which compensation is requested. A schedule setting forth the number of hours expended by the partners, counsel, associates and paraprofessionals of the Togut Firm, their respective hourly rates and the year in which each attorney was admitted to practice is attached as Exhibit "1." A schedule specifying the type of expenses for which the Togut Firm is seeking reimbursement and the total amount for each category is attached as Exhibit "2."
- 3. The Togut Firm maintains computerized records of the daily time slips completed by all attorneys and paraprofessionals. Preceding the time entries is a chart listing the names, billing rates and time spent by each of the attorneys and paraprofessionals rendering services on behalf of the Debtors. In support of this Application, copies of these computerized records, together with a computer generated

In accordance with this Court's prior order concerning professional fee statements, the Togut Firm has reduced its fees related to the preparation of monthly fee statements by 50%, for an aggregate reduction of \$1,156.50 in compensation sought during the Third Interim Period.

detailed itemization of the expenses incurred by the Togut Firm for which reimbursement is sought, have been furnished to the Notice Parties (as defined in the Interim Compensation Order).

- 4. On or about August 5, 2010, the Togut Firm filed its first interim application for compensation and reimbursement of expenses for the period December 21, 2009 through May 31, 2010 (the "First Interim Period") for fees in the amount of \$529,364 and expenses of \$3,107.43 (the "First Interim Application"). In response to certain issues raised by the Fee Examiner, the Togut Firm voluntarily reduced its fees by \$1,989. Following a hearing held on October 26, 2010, this Court allowed the Togut Firm's fees, subject to a 10% holdback of \$52,737.50, plus full reimbursement of expenses.
- 5. On November 15, 2010, the Togut Firm filed its second interim application for compensation and reimbursement of expenses for the period June 1, 2010 through September 30, 2010 (the "Second Interim Period") for fees in the amount of \$113,600 and expenses of \$581.46 (the "Second Interim Application" and, together with the First Interim Application, the "Prior Interim Applications"). In response to certain issues raised by the Fee Examiner, the Togut Firm voluntarily reduced its fees by \$805. Following a hearing held on December 15, 2010, this Court allowed the Togut Firm's fees, subject to a 10% holdback of \$11,279.50, plus full reimbursement of expenses.
- 6. Pursuant to the terms of the Interim Compensation Order, the Togut Firm submitted six monthly invoices during the Third Interim Period: (i) for the period from October 1, 2010 through October 31, 2010 in the amounts of \$250,637 for fees and \$926.96 for expenses; (ii) for the period November 1, 2010 through November 30, 2010 in the amounts of \$98,884.50 for fees and \$932.85 for expenses;

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- 29. (Original) A system according to claim 28 wherein said transaction is reversed by accessing a database of said service provider through a communications system operating between said trader and said service provider.
- 30. (Original) A system according to claim 29 wherein said database stores information relating to each transaction by an identification code.
- 31. (Previously Presented) A system according to Claim 1, wherein said trader has access to an account of said trader into which funds are transferred, through said service provider, so as to verify transaction details in said account of said trader.
- 32. (Previously Presented) A system according to Claim 1 wherein said user terminal has access to an account of said user to verify that sufficient funds are available for said transaction.
- 33. (Previously Presented) A system according to Claim 1, including goods and/or services having associated taxes/imposts applied by a legislative body, wherein the transfer of funds of said user includes said service provider transferring the associated amount of taxes/imposts to the legislative body.
- 34. (Previously Presented) A system according to Claim 28 including goods and/or services having associated taxes/imposts applied by a legislative body, and in a reversible transaction, wherein the amount of taxes/imposts previously transferred to the legislative body is transferred to said user.
- 35. (Currently Amended) A system according to Claim 1, wherein the user terminal is incorporated in said trader terminal and said user information is incorporated in either said user terminal or said a user card associated with the user terminal.



36. (Currently Amended) A method of automatically conducting a business transaction between a user and a trader, said method comprising the steps of:

providing a local communication link between a user terminal and a trader terminal; transmitting over said link an order by said user for goods and/or services of said trader using said user terminal;

receiving said order at said trader terminal;

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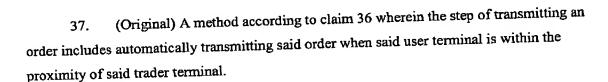
wherein said order is transmitted and received using a messaging protocol;

receiving by said user terminal, or by a user card associated with a user terminal,

trader billing information representative of said trader from said trader terminal via said link,

processing on said user terminal or said user card-said trader billing information and user information representative of said user,

transmitting said trader billing information and said user information to a service provider over a communications network independent of the local communication link, and automatically transferring funds of said user to said trader via said service provider under the authorization of said user to effect a financial transaction between said user and said trader.



- 38. (Currently Amended) A method according to claim 36 wherein the receiving step includes receiving said trader billing information through said local communications link when said user terminal or said user eard is in the vicinity of said trader terminal.
- 39. (Currently Amended) A method according to claim 36 wherein the receiving step includes receiving said trader billing information through said local communications link when said user terminal or said user card-is linked to said trader terminal.
- 40. (Previously Presented) A method according to Claim 36 wherein said financial transaction is authorised by said user upon entry of a PIN on said user terminal.



From-WASHINGTON-C THORNBURG

Serial No. 09/254,148 Attorney Docket No. 663/35631 Page 9

- (Previously Presented) A method according to Claim 36 wherein prior to said 41. transferring step, the method includes the step of the user confirming said order using said user terminal.
- (Previously Presented) A method according to Claim 36 wherein the step of 42. transferring funds includes transferring reserve funds of said user, said reserve funds being transferred either partially or in full according to certain criteria relating to goods and/or services purchased by said user.
- (Previously Presented) A method according to Claim 36 further including the 43. step of transmitting delivery destination information for goods and/or services purchased by said user to said service provider, together with said trader billing information and said user information.
- (Previously Presented) A method according to Claim 36 further including the 44. step of transmitting information identifying said goods and/or services purchased by said user and transmitting said delivery destination information to an electronic warehouse, or the like.
- (Original) A method according to claim 44 further including the step of 45. allocating said goods and/or services on the basis of said information identifying said goods and/or services purchased by said user, and initiating delivery of said goods and/or services on the basis of said delivery destination information for collection by said user.
- (Original) A method according to claim 45 wherein the step of transferring 46. funds, including reserve funds, follows the completion of delivery or acceptance by said user of said goods and/or services.
- (Previously Presented) A method according to Claim 36 wherein the step of 47. receiving is performed by data acquisition means, such as detector means, which is either integrated into said user terminal or integrated in a user card, said user card adapted to be inserted into and received by said user terminal.



Serial No. 09/254,148 Attorney Docket No. 663/35631 Page 10

(Previously Presented) A method according to Claim 36 wherein the step of 48. processing is carried out by said user terminal or said user card, the user card having computing processor means for carrying out said processing.

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- (Previously Presented) A method according to claim 47 further including the 49. step of reading, through reader means, any one or all of said trader billing information, said user information and delivery destination information.
- (Previously Presented) A method according to Claim 36 further including the 50. step of informing, through said user terminal, said user of all processes being conducted in respect of said business transaction.
- (Previously Presented) A method according to Claim 36 including the step of 51. reversing said business transaction in the event that goods and/or services purchased by said user fail to meet certain criteria, such as quality control, said reversing of said transaction being initiated by said trader and including a partial or full refund to said user.
- (Previously Presented) A method according to claim 51 and where said goods 52. and/or services have associated taxes/imposts applied by a legislative body, the step of transferring funds of said user including transferring to said legislative body a partial or full amount of said taxes/imposts.
- (Original) A method according to claim 51 and where said goods and/or 53. services have associated taxes/imposts applied by a legislative body and a dollar amount equivalent to said taxes/imposts has been transferred to said legislative body, in a reversible transaction further including the step of transferring a partial or full amount of said dollar amount to said user.
- (Previously Presented) A method according to Claim 36 further including the 54. steps of transmitting confirmation messages of completion of all or part of said financial transaction to said trader and said user.



Serial No. 09/254,148 Attorney Docket No. 663/35631 Page 11

- 55. (Previously Presented) A method according to Claim 43 further including the steps of transmitting confirmation messages to said trader and said user of delivery of said goods and/or services.
- 56. (Previously Presented) A method according to Claim 36 further including the steps of allowing said trader access to an account of said trader, through said service provider, so as to verify transaction details in said account of said trader.
- 57. (Currently Amended) The system according to Claim 1, wherein the local communication link is automatically established between the user terminal or user eard and the trader terminal when the user terminal or user card is in the vicinity of the trader terminal.
- 58. (Currently Amended) The method according to Claim 36, wherein the local communication link is automatically established between the user terminal or user card and the trader terminal when the user terminal or user card is in the vicinity of the trader terminal.

